

## CHAPTER 9: IMPLEMENTATION STRATEGY

### Introduction

A Growth Policy is a non regulatory document created to ensure the promotion of public health, safety, morals, convenience or order or the general welfare by defining a community's goals and policies to reach those goals (76-1-106 M.C.A.). A growth policy is also created for the sake of efficiency and economy in the process of community development (76-1-106 M.C.A.). This Growth Policy has fifty Goals and over two hundred supporting Policies. Some of those policies (such as P. 16 .5 - Promote the rehabilitation of historic and/or architecturally significant structures for the purpose of conversion to housing) can be implemented by the Planning Office in the normal course of business as various proposals are processed. There are over one hundred policies that call for specific actions that are beyond the scope of the normal daily application processing activities undertaken by the Planning Office. These policies call for such things as agreements with other governmental bodies, identification of lands suited for particular purposes, new countywide plans and new or expanded regulations. This chapter organizes those policies into categories and calls for the creation of an implementation plan by the County Commissioners and Planning Board. The Implementation Plan would achieve the goals of the growth policy in a reasonable timeframe. Land Use Maps are an integral part of the strategy and their recommended use is explained. There are existing instruments, such as subdivision regulations, zoning districts and regulations, and neighborhood plans, which are logical segments of the strategy. Some new instruments should be considered and these are suggested. Public participation and hearings are an integral part of the implementation strategy. No new policies, plans, maps or regulations should be formally adopted until they have been publicly reviewed by the Planning Board and their recommendation forwarded to the County Commissioners in the manner set forth herein.

It is important to remember a Growth Policy is not a miracle cure for the ills of a growing community. It is important to note that even the best Growth Policy has no impact if it is not implemented. In keeping with Chapter 1 of this document, regulations should protect the public health and safety with a minimal impact on personal freedoms. Implementing the Flathead County Growth Policy must achieve a balance. This chapter discusses various aspects of implementing the Flathead County Growth Policy and proposes techniques that are a reasonable "middle ground" between many competing interests. Just as no Growth Policy is a panacea, no implementation technique is perfect. The implementation tools described in this chapter are reasonable and appropriate suggestions for Flathead County based on numerous suggestions received from the public (see Appendix B: Public Involvement Summary)

### PART 1: Categories for Policy Implementation

This section organizes various policies of the Growth Policy into categories based upon the type of action for which it calls. A number of plans, agreements, maps and regulations etc. are listed below. The county will be able to more effectively deal with the

ramifications of growth when those documents are in place. The County Commissioners should meet with the Planning Board in the first six months after the growth policy has been adopted to establish priorities and create an implementation plan to be a part of the initial amendment (see Part 6 of this chapter). The implementation plan shall include a complete timetable for implementing the growth policy.

## **PART 2: Public Process**

The Flathead County Growth Policy does not address the specifics of every growth issue but rather creates a guiding framework that calls for detailed plans to be created and incorporated over time as appendices. The list of plans that may be appended to the Flathead County Growth Policy includes (but is not limited to);

- **Development Predictability Plan**
- **Affordable Housing Plan**
- **Parks and Recreation Master Plan**
- **Transportation Plan**
- **Water Quality/ Flathead Basin Management Plan**
- **Public Facilities Plan**
- **Emergency Plan(s)**
- **Wastewater Management Plan**
- **Mineral Resource Extraction Plan**

All plans created in Flathead County should involve the public and be a reflection of the views of the residents. In order to accomplish this, the following process will be utilized;

1. **Guidance from Planning Board and Commissioners:** The Flathead County Planning Board and Flathead County Board of County Commissioners will prioritize and guide planning projects in Flathead County. The boards will prioritize and approve needed projects and offer guidance to planning staff.
2. **Scoping Meetings:** The public must first be informed of the problem or problems and the manner by which the proposed plan will solve the problem or problems. This allows the public to determine if the proposed plan is an efficient and worthwhile allocation of public resources. Meetings shall have opportunities for the public to provide comments and suggestions. Public meetings should be held county-wide at convenient times and locations and should be well advertised.
3. **Public Workshops:** As the draft is being created, interactive public workshops will be conducted covering concepts and solutions being considered for incorporation into the plan. Workshops will allow staff and the public to refine ideas before they are presented in the draft.
4. **Public Comment on Draft:** After the document is created, a draft version will be released for public review and comment. Electronic versions shall be available online and paper versions at Flathead County libraries and the Flathead County Planning and Zoning Office. The public will have a comment period to read and comment as established by the commissioners.

5. **Planning Board Review and Revision:** The Flathead County Planning Board shall review and revise the draft plan as the Board deems appropriate and/or based on public comment received.
6. **Final Public Review and Comment:** A final, revised version of the plan will be forwarded to the Flathead County Commissioners for their consideration. After the commissioners pass a resolution of intent to adopt, the public will have a comment period to read and comment as established by the commissioners.

### **PART 3: Land Use Maps**

Land use maps are traditionally used to illustrate locations in a given area that have identified characteristics. They graphically present valued information such as boundaries, spatial relationships and various geographical characteristics. The Growth Policy utilizes land use maps in several ways. There are Officially Adopted Maps that become extensions of the Growth Policy. There are Illustrative Maps that indicate relatively specific areas where certain conditions exist. There are also Proposed Maps that are not yet in existence, but are suggested as means to accomplish certain objectives.

#### **Officially Adopted Maps**

The following Officially Adopted Maps have been adopted as part of the Flathead County Growth Policy. They serve as visual presentations of parts of the document and are thus considered visual policy statements. They should be implemented and regarded the same as the written portions. Additional maps may be officially adopted as part of the Growth Policy in the future.

#### **Designated Land Use Map (See enclosed map).**

This map depicts areas of Flathead County that are legally designated for particular land uses. The areas include zoning districts and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the regulations and individual plan documents. This map is a foundation for zoning and neighborhood plans and continues their legal basis. This map will be changed from time to time to reflect additional zoning districts, map changes and neighborhood plans as they are adopted.

#### **Illustrative Maps**

These maps illustrate areas of the county that have been identified as belonging in various categories. Initial versions of these maps are included in the Growth Policy and they are noted as being for “illustrative purposes only”. The Planning Department will update these maps and provide additional ones as they become available. These maps are not definitive and are not to be used to legally classify a particular piece of real property. They can be used to indicate the likelihood of a particular condition existing on a particular site. The burden of proof will fall upon the owner or developer of a parcel to

demonstrate the condition does not exist. At a minimum, the following maps are or will be provided:

- Map 2.1: Flathead Lands
- Map 2.2: Corporate Timber Lands
- Map 2.3: Farmlands
- Map 2.4: Depth to Groundwater
- Map 2.5: Steep Slopes
- Map 2.6: Floodplains
- Map 2.7: Fault Lines
- Map 2.8: Wetlands
- Map 3.1: 2000 Census Designated Places
- Map 3.2: 2000 Population per Square Mile
- Map 3.3: 2000 Housing per Square Mile
- Map 4.1: Park and Recreation Sites
- Map 6.1: Existing Roads
- Map 6.2: Traffic Sheds
- Map 6.3: Proposed Road Corridors
- Map 6.4: Existing and Proposed Bike/Pedestrian Paths
- Map 7.1: Individual Wells and Septics
- Map 7.2: Fire Districts
- Map 7.3: Basic Life Support Districts
- Map 7.4: Advanced Life Support Districts
- Map 8.1: Flathead Watershed
- Map 10.1: Neighborhood Plans

## Proposed Maps

- **Development Predictability Map-** The Flathead County Development Predictability Map (DPM) would be created by establishing first a list of spatial criteria relevant to the seven elements of Flathead County listed in Chapter 1. This list would identify threshold criteria for appropriate densities of development. The criteria used would be available for review and subject to public scrutiny and input prior to being applied to a map. The criteria, densities and number of categories would be established during the process. Clustering bonuses may be included for those who contribute to the health, safety and welfare of Flathead County by dedicating as permanent open space critical lands such as floodplains, wetlands, areas of high groundwater, or other critical lands specifically pre determined in the DPM.

Advantages of the Development Predictability Map would be predictability for landowners, developers, neighbors, and staff as well as flexibility for areas transitioning from rural to suburban.

- **Official Right of Way Maps-**

Official maps are used to spatially identify rights of way that must be preserved in a growing community. One of the causes of increased traffic is a static transportation grid that forces more cars onto the same roads. Areas where public utilities should exist to serve the public are identified and neighbors/landowners can plan accordingly. By planning areas of Flathead County where roads, trails and public utilities should be built to serve a growing community, the acquisition of rights of way can occur over time during the development process, rather than all at once through an expensive and undesirable condemnation process. An official map that plans for essential road, trail and public utility corridors eliminates requests for right of way easements on a project-by-project basis. Developers and landowners may consult the “official map” during the project planning process and know if any rights of way will be requested by Flathead County. Standards for county execution of road, trail, or utility construction once a certain amount of right of way is acquired should be included to insure that rights of way are used in a timely manner.

## PART 4: Existing Land Use Instruments

### Subdivision Review

The subdivision of land in Flathead County is and will continue to be regulated by the Flathead County Subdivision Regulations. Subdivision review implements the growth policy by ensuring healthy, safe and compliant development practices that do not unreasonably impact the residents of Flathead County. The regulations have been rewritten to include all the revisions made necessary by the policies cited above.

Local government review of subdivision is required under 76-3-501 M.C.A. All compliant growth policies in the State of Montana are required to contain statements explaining how the governing body will define the impact of subdivision on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, evaluate and make decisions regarding proposed subdivisions, and conduct public hearings. With respect to the criteria listed in 76-3-608(3)(a)(i-iii) M.C.A.:

- **How the governing body will define impacts-** Spatial thresholds and criteria will be established and listed to define the impact of both major and minor subdivisions on the elements listed specifically in 76-3-608(3)(a)(i-iii) M.C.A. These thresholds and criteria will be included in the subdivision regulations and subject to public review.
- **How the governing body will evaluate and make decisions regarding proposed subdivisions-** Each of the thresholds and criteria that are listed as definitions will be stated as presumptions of impact if the definition is met. All development applications meeting the definitions will be required to present evidence to overcome the presumption of impact. The governing body will consider evidence presented by the applicant and determine whether the applicant has overcome the presumption. This method of evaluating and making decisions regarding the impact of proposed subdivisions places the burden of proof on the applicant, not the residents and representatives of Flathead County.
- **How the governing body will conduct public hearings on proposed subdivisions-** The Flathead County Planning Board, an authorized agency of the governing body (76-1-101 M.C.A.) will conduct public hearings compliant with the requirements of (76-3-605 M.C.A). Meetings will generally be conducted according to Roberts Rules of Order, and will contain the following items, not necessarily in this order:
  1. Reading of the public notice for hearing.
  2. Approval of minutes.
  3. Report by staff.
  4. Presentation by applicant/representative.
  5. Agency comments.
  6. Public comments.
  7. Staff/Applicant rebuttal.
  8. Board questions of staff, applicant.
  9. Motion.
  10. Second to motion.
  11. Board discussion, questions.
  12. Action on the motion.
  13. Public comment on any matters not specifically on the public notice for hearing.

14. Old business.
15. New business.
16. Motion to adjourn
17. Second to the motion.
18. Action on the motion.

## **Zoning**

Land use zoning in existence at the time the Growth Policy is adopted shall remain in place. Those policies cited in Section I of this chapter as pertaining to zoning shall be incorporated into the zoning regulations according to the amendment procedures outlined in the Zoning Regulations. Zoning districts could include, but not be limited to:

- Agriculture
- Timberlands
- Residential
- Commercial
- Industrial
- Planned Unit Developments
- Neighborhood plan specific zoning in existence at the time of adoption of this document.

## **Neighborhood Plans**

Flathead County has a long tradition of recognizing Neighborhood Plans to be the most grass root form of local control. All Neighborhood Plans that were adopted as part of the 1987 Master Plan are hereby incorporated as addenda to the Flathead County Growth Policy. Neighborhood plans in existence will be incorporated in the county growth policy and recognized as a neighborhood plan. Existing neighborhood plans should be reviewed for consistency with the provisions of Chapter 10 of this document. Implementation of neighborhood plans must then be reviewed for adequacy in promoting the goals and policies of the plan.

## **PART 5: Possible Land Use Instruments**

The following are suggested as potential instruments for use by Flathead County in implementing the Growth Policy. Each has its own benefits and can be utilized in specialized circumstances to achieve desired results.

## **Special Consideration Areas**

Areas of Flathead County with unique situations pertaining to the public health, safety and general welfare will be treated with special consideration. Each area will be delineated using criteria open to public scrutiny and subject to the health, safety and general welfare goals of the Flathead County Growth Policy. Special consideration areas should include, but not be limited to;



- Glacier International Airport
- Glacier National Park
- Gateway areas
- Flathead County Landfill
- Floodplain regulations
- Lakes and Lakeshore protection regulations.
- Wetlands
- Critical wildlife habitat (should not prohibit growth, but encourage techniques that allow humans and wildlife to coexist)

Regulations used in “Special Consideration Areas” should be the minimum needed to mitigate the impact of growth and development. Special consideration areas should not be misconstrued to prohibit development in an area, only to create impact mitigating standards and/or incentives to promote compatible development.

### **Capital Improvement Plan**

Flathead County must use a systems approach to identify and prioritize maintenance and infrastructure improvements relative to all other county and regional service delivery programs and needs. A comprehensive capital improvement plan (CIP) including, but not limited to, buildings, roads, and sewer and water facilities, and/or parks must be created to compare needs with existing and future sources of revenue. Most CIPs are based on performance and identify what improvements and programs are needed to provide a level of service goal or to meet public demands and expectations.

A typical CIP document involves a short term (five year) and long term (total) list of facilities and needs. The CIP is used to develop an annual budget and to determine funding gaps to maintain a certain level of service or performance. A CIP should contain an administrative section that prioritizes projects based on goals and policies of the Flathead County Growth Policy, and a fiscal plan to identify costs for planning, design and construction of each CIP project. Identifying project costs and scales assists coordination of financial arrangements as well as construction timelines. Prioritizing capital projects aids the planning process by identifying areas that will have infrastructure capacity to accommodate certain types of growth.

### **Impact Fees**

During the 2005 legislative session, Senate Bill 185 was passed enabling jurisdictions in Montana to utilize impact fees to mitigate actual impact of development on the local infrastructure. Before Flathead County can utilize impact fees, a study must be completed to determine the actual fiscal impact to local facilities and services of each lot in a new development. In order to reach the goals of the Flathead County Growth Policy, impact fees shall be assessed that are justified, reasonable and accurate.

### **Special Improvement Districts**



Special improvement districts are a way for residents who will benefit from an improvement to community infrastructure to pay for the improvement without burdening all residents. The authorization to create rural improvement districts (districts outside of incorporated areas) comes from 7-12-2102 M.C.A. State law clearly establishes the projects and purposes for which improvement district may be created. Flathead County can create rural improvement districts for infrastructure improvements that will benefit a limited number of county residents and are specifically authorized in 7-12-4102 M.C.A.

### **Tax Increment Financing**

Tax increment financing is an implementation tool that utilizes future revenue generated by a public improvement project to secure up-front financing. Tax increment financing is authorized for a variety of projects in 7-15-4282 M.C.A., and any use of tax increment in rural Flathead County must comply with all relevant state statutes.

### **Performance / Impact Zoning**

Adopted under traditional zoning laws, this program regulates the impact of a use, rather than the use itself. For example, there would be no strictly residential, commercial or industrial districts. Instead a developer would have to comply with a series of prescribed performance standards that would address the amount of traffic generated, access points, the amount of dust, odor or smoke emitted, fire protection, height, setbacks, views, landscaping and screening, sewer and water plans, drainage, etc. This type of zoning has been utilized in some existing neighborhood plans.

### **Development Rights**

Development rights may be considered a commodity that can be bought and sold. Some communities have set up systems to facilitate the transfer of these rights. The systems have proven difficult to use and may not be well suited to an area the size of Flathead County, particularly without the participation of the incorporated areas. These systems will evolve over time and it may become advisable for the county to consider a suitable version at a future time.

### **Community Character Based Land Use Systems**

Community character based land use systems attempt to define and map general land use types, such as urban, suburban and rural. They then go on to describe the type of development that is compatible, in terms of size and density (but not use), with each land use type. A fundamental objective of this type of system is to preserve the character of an area and enhance it where possible; to allow development, but to assure that development is consistent with character. They establish standards and criteria for land development that will maintain and enhance specific character types (urban, suburban and rural) in designated areas. These systems have been successfully utilized in western counties that

are also concerned with the maintaining the identity of rural communities (see Chapter 1: The Character of Flathead County).

## **PART 6: Monitoring Implementation**

Implementation of the Flathead County Growth Policy must be monitored for the document to succeed in serving the public. Monitoring compliance with goals and policies of the document, as well as execution of the implementation timeline, is a critical component of the document. The following techniques shall be used to ensure that the Flathead County Growth Policy continues to change with the needs of the county.

### **Growth Policy Progress Report**

As of the date of adoption of this document, the Flathead County Planning and Zoning Office shall annually prepare a report to the Planning Board and Flathead County Commissioners detailing the status of the Flathead County Growth Policy. This report should include at a minimum:

- Updated demographic and housing statistics for Flathead County
- Update of trends identified in the growth policy and consideration of changes caused by implementation of the growth policy or lack of implementation.
- Suggestions for new goals and/or policies to re-direct and modify the growth policy to more accurately reflect the existing situation and trends.
- Success or failure of implementation techniques.
- Suggestions for modifications to goals and policies.
- Proposals for new implementation techniques to adequately meet the goals of the Growth Policy.

### **Growth Policy Update**

At a minimum of every five years, the Planning Board shall prepare a draft revised Growth Policy. The revised Growth Policy should include updated existing characteristics and projected trends. Market fluctuations, environmental events, shifts in custom and culture, and all other changes in the community should be documented. Goals and policies should be revised as needed to accurately reflect the present day needs of Flathead County. New techniques needed to implement goals and policies should be included. Implementation techniques no longer relevant or not appropriate should be eliminated.

Public meetings shall be held throughout Flathead County to present revisions to the public and gather public opinion. After a thorough public engagement process, the document shall be forwarded to the Planning Board for consideration (or appropriate process determined by state statute). The Planning Board shall consider revisions and make changes as needed before making a recommendation to the County Commissioners.

## **PART 7: Growth Policy Amendments**

A plan must be allowed to function as intended before an accurate measure of its effectiveness may be made.

However, all plans must have a degree of flexibility. Various events could potentially create a situation where certain goals, policies and/or implementation techniques are no longer adequate or appropriate. If this occurs prior to the regularly scheduled updates, the Flathead County Growth Policy may be amended. Amendments may be proposed by initiative from governing bodies or citizens. It is also contemplated that an Initial Amendment shall be needed to correct any oversights, flaws or unintended consequences that become apparent as the Growth Policy is put in place. In addition, it is assumed that from time to time changes will need to be made in the Officially Adopted Maps. Amendments shall be adopted by the following methods.

### **Initial Amendment**

The Initial Amendment shall be proposed to the County Commissioners by vote of the Flathead Planning Board in the seventh month following adoption of this Growth Policy by the County Commission. This amendment shall correct any perceived flaws and oversights in the document, remedy any unintended consequences and include final, or updated, versions of maps and other items referenced in the Growth Policy. The Planning Board shall also call for written submissions for inclusions in the Initial Amendment from the public. All such submissions shall be submitted prior to the end of the fifth month after this Growth Policy has been officially adopted. A public hearing or hearings on the Initial Amendment shall be conducted by the Planning Board prior to its recommendation to the County Commissioners for adoption.

### **Governing Bodies Initiated Amendments**

To continually protect and serve the public health, safety, morals, convenience, order, or general welfare of all residents of Flathead County, planning staff may, at the request of the County Commissioners or majority vote of the planning board, initiate an amendment to the Flathead County Growth Policy. Amendments shall be subject to standard public review procedures including public notice of hearing in a newspaper of record, preparation of findings of fact, planning board hearing and recommendation and decision by the governing body. Findings of fact shall be based on criteria for growth policy amendments found later in this chapter.

### **Citizen Initiated Amendments**

Circumstances may arise when residents in Flathead County feel the growth policy is no longer adequately protecting the public health, safety, morals, convenience, order, or general welfare in the process of community development (76-1-106 M.C.A.) and revisions are warranted. If this occurs a written request for revision may be submitted to the Planning Director, Planning Board and/or Commissioners. Such written request for revision must address the criteria outlined later in this chapter.

## Map Changes

Officially adopted maps are essentially “snapshots in time” of the county. As such, it will become necessary to make changes to those maps to reflect actual changes. Other types of changes may also become advisable. Map Changes will be considered by the Planning Board on a quarterly basis. Possible changes to the Officially Adopted Maps may be suggested in writing to the Planning Office at any time for inclusion in the next regularly scheduled Map Change. Such suggestions must include verifiable evidence necessitating the proposed change.

## Growth Policy Amendment Criteria

The following criteria shall be used when considering amendments to this document:

- Does the amendment affect overall compliance of the growth policy with 76-1-601 Montana Code Annotated?
- Is the amendment based on existing characteristics and/or projected trends that are substantially different from those presented in the most recent update?
- Does the amendment create inconsistencies within the document?
- Does the amendment further protect and comply with the seven elements of the public’s vision for the future of Flathead County?
- Has the proposed amendment undergone a sufficient process of county-wide, public participation and review?